

HEDLUND et al  
Serial No. 09/840,029  
January 5, 2004

### REMARKS

The requirement that applicants elect between "species" A and B is hereby traversed. Specifically, the election is premised on the assertion that there are two separate and distinct "speices" being claimed. In fact, however, the species identified by the Examiner are different in terms of scope, and are thus related in the manner of **genus** and **species** – not two separate species.

Specifically, applicants note that the asserted "species" A is in fact a genus of the asserted "species" B. The fact that the claims of "species" A and B differ in scope – that is, the claims of "species" A being broader than the claims of "species" B – is not a proper reason for requiring election therebetween. Thus, an examination of **all** claims is in order and withdrawal of the subject election requirement is requested.

In order for this response to be deemed complete in all respects, however, applicants hereby elect "species" B for further prosecution -- namely, a method and apparatus to diagnose a heart with an esophagus probe.

All pending claims 1-30 read on the elected "species" B and are thus subject to examination herein. Moreover, contrary to the Examiner's statement on page 2 that "no claim is generic", applicants submit that claims 1, 6-9 and 21 are in fact generic to both identified "species", with claims 2-5, 10-20 and 22-30 being readable directly upon the elected "species" B.

An early and favorable reply on the merits is awaited.

Respectfully submitted,

NIXON & VANDERHYTE P.C.

By:



Bryan H. Davidson  
Reg. No. 30,251

BHD:fmh  
1100 North Glebe Road, 8th Floor  
Arlington, VA 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100